

REMARKS

The claims are claims 12 to 21, 31 and 54.

This response newly cancels claims 38 and 39 not previously canceled. Claims 31 and 54 are currently amended.

The NOTICE OF NON-COMPLIANT AMENDMENT of January 5, 2004 states that the PRELIMINARY AMENDMENT filed October 25, 2004 with the filing of the REQUEST FOR CONTINUING EXAMINATION included and improper indication of the status of some claims.

The proper status of the claims of this application is:

claims 1 to 11	canceled;
claims 1 to 21	original;
claims 22 to 30	canceled;
claim 31	currently amended;
claims 32 to 53	canceled; and
claim 54	currently amended.

The listing of the claims in this response includes the proper status of these claims.

Claims 31 and 54 were finally rejected under 35 U.S.C. 103(a) as made obvious by the combination of Ma et al U.S. Patent No. 6,563,805 and Kleiman U.S. Patent No. 5,959,945.

Claim 31 recites subject matter not made obvious by the combination of Ma et al and Kleiman. Claim 31 recites "the content requested not included in the digital radio transmission but associated with the content which is transmitted in the digital radio transmission." Claim 31 has been amended to make clear that it is this requested content that is downloaded to the storage device. The Applicant submits that Ma et al fails to disclose any such associated content but is limited to downloading the broadcast digital audio signal.

The FINAL REJECTION fails to mention this limitation and includes no indication of any portion of Ma et al or Kleiman that

makes obvious this subject matter. The ADVISORY ACTION cites XM radio receiver 8, buffer 10, playback circuit 12 and FM modulator illustrated in Figure 1 and column 3, lines 54 to 68 and column 4, lines 9 to 21 of Ma et al as making obvious this subject matter. Ma et al states at column 3, lines 54 to 68:

"In an illustrative embodiment, the satellite digital audio service receiver 4 is operated in a mobile environment, such as an automobile. Rather than incorporate a separate audio amplifier and loudspeakers within the satellite digital audio service receiver 4, the FM radio and speaker system typically present in most automobiles, is used to advantage. The output of analog audio signals from playback circuit 12 are fed into an FM modulator 14 and thereafter broadcast at low power via antenna 15, in accordance with FCC Rules Part 15 et seq., within the commercial FM broadcast band. In this way, the FM radio system present in the automobile (not shown) can tune to the frequency of broadcast, receive, and play the audio signals through the existing loudspeakers within the automobile."

This portion of Ma et al includes no teaching regarding downloading requested content not the digital radio transmission but associated with the digital radio transmission. This portion of Ma et al clearly teaches retransmission of the digital radio transmission as an FM radio signal for reception on the FM radio system in the automobile. Ma et al states at column 4, lines 9 to 21:

"The audio signals output from playback circuit 12 can also be made available at a low power output (not shown) for interface to a headset (not shown) so that the user can listen to the audio signal directly from the satellite digital audio service receiver 4.

"Controller 16 is interfaced to the digital radio receiver 8, digital buffer 10, playback circuit 12 and output circuit 14. The controller is programmed to control the flow and routing of the various signals and also provides a user interface. The user interface allows the user to tune the digital radio receiver 8 to the desired radio channel, select direct or buffered playback, and other general user interface needs."

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This portion of Ma et al fails to disclose transmitting a request for content associated with but not included in the digital radio transmission. The only transmission disclosed in this portion of Ma et al is the digital radio transmission received by XM radio receiver 8. While this transmission may be stored in digital buffer 10 or digital buffer 25, this is not the claimed requested content. This is in contrast to the disclosure of this application at page 10, lines 5 and 26:

"If the entire digital content is not present in the memory buffer, and the user has chosen not to flag the digital selection or download an incomplete selection, the user may choose at step 150 to acquire the content from a source other than the digital radio transmission. For example, each digital selection of each digital signal may also include, in addition to identifying data, information regarding content agent 70 sufficient to allow a request signal 40 to be sent to content agent 70. As discussed previously, transmitting and processing payment information can be accomplished in several ways. However, in addition to sending response signal 80, content agent 70 also transmits the requested content to the user electronically. Thus, user 30 must transmit information along with request signal 40 sufficient to allow content agent 70 to successfully transmit the content to user 30. Like response signal 80, the content may be transmitted via a wireless network or through an existing network like the Internet. In a similar fashion, the user may choose to acquire content that is associated with the digital radio content but that is not being transmitted. Content that is considered to be associated with the digital radio content includes content created by the same content provider, content which is related in subject matter, content that that can be presented together in the sense of an encompassing work or performance or any content that is otherwise commercially or artistically connected or related to the digital radio content. In the case of a song, information accompanying the digital selection may allow the user to send a request signal 40 and payment information for the entire album on which the song appears. After the payment information has been sent and processed, the content agent 70 may then transmit the entire album to the user via a wireless network or through an existing network like the Internet."

This clearly involves content not included in the digital radio signal as recited in claim 31. The portions of Ma et al cited by the Examiner fail to disclose this type content. Accordingly, claim 31 is unobvious over the combination of Ma et al and Kleiman.

Claim 54 recites subject matter not made obvious by the combination of Ma et al and Kleiman. Claim 54 recites "downloading a decoder capable of converting the downloaded content to an analog signal to the storage device; and playing the downloaded content at the receiver using the downloaded decoder by converting the downloaded content to an analog signal." Note particularly that the recitation of downloading the decoder is separate from downloading the content. Neither Ma et al nor Kleiman teach downloading a decoder used to decode the content. The FINAL REJECTION fails to mention this limitation and includes no indication of any portion of Ma et al or Kleiman that makes obvious this subject matter. The ADVISORY ACTION cites column 2, lines 6 to 33 of Ma et al as making this limitation obvious. Ma et al states at column 6, lines 6 to 33:

"The need in the art is addressed by the apparatus and methods of the present invention. The inventive apparatus operates with a satellite digital radio broadcast system in which digital radio signals are received by a satellite digital audio service receiver which includes a digital radio receiver, a playback circuit, and an output circuit arranged such that the digital radio receiver converts the received digital radio signals to encoded digital signals and feeds them to the playback circuit which converts the encoded digital signals to audio signals for playing through the output circuit.

"The inventive apparatus includes a digital converter which receives the encoded digital signals from the digital radio receiver and converts them to decoded digital signals. The digital converter has an enabling input which enables it to convert the encoded digital signals to decoded digital signals which are a suitable form for recording onto digital recording media. The inventive apparatus also includes a

smartcard module which receives a smartcard that has a prepaid account balance stored on it. The smartcard module has an enabling output coupled to the enabling input of the digital converter. Therefore, if the account balance on the smartcard is sufficient, the smartcard module enables the digital converter to convert the encoded digital signals to decoded digital signals. A digital recorder receives the decoded digital signals and records them onto a digital medium."

This portion of Ma et al clearly requires the downloaded content to be decoded before playback. However, this portion of Ma et al fails to disclose downloading a decoder "capable of converting the downloaded content to an analog signal" as recited in claim 54. Accordingly, claim 54 is not made obvious by the combination of Ma et al and Kleiman.

Claims 12 to 21 are allowed.

The Applicants respectfully submit that all the present claims are allowable for the reasons set forth above. Therefore early entry of this amendment, reconsideration and advance to issue are respectfully requested.

If the Examiner has any questions or other correspondence regarding this application, Applicants request that the Examiner contact Applicants' attorney at the below listed telephone number and address to facilitate prosecution.

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Respectfully submitted,

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